

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

DENNIS LEE SMITH,	:	
	:	
Plaintiff,	:	Civil Action No. 07-525-JJF
	:	
v.	:	
	:	
PATRICIA A. MEYERS, MACK L.	:	
DAVIS, JR., STEVEN S. KREBS	:	
and BARBARA KREBS,	:	
	:	
Defendants.	:	

**MEMORANDUM ORDER**

WHEREAS, the Court issued an Order (D.I. 14) requiring Plaintiff to show cause why this action should not be dismissed for failure to serve pursuant to Fed. R. Civ. P. 4(m);

WHEREAS, Plaintiff responded to the Court with a motion requesting the Court to take no further action with respect to this case (D.I. 15) and a letter (D.I. 16) intended to clarify his previous filing (D.I. 16);

WHEREAS, Plaintiff contends in both documents that he has not filed a civil complaint, and therefore, the requirements of Rule 4(m) do not apply to him;

WHEREAS, Plaintiff paid the filing fee to institute a civil action, and the Court has construed Plaintiff's opening pleading, captioned as a Motion To Prohibit, as a civil complaint;

WHEREAS, Plaintiff has offered no reason for his failure to comply with Rule 4(m), and it appears, from Plaintiff's pleadings

that he does not wish to pursue this action as a civil complaint<sup>1</sup>;

NOW THEREFORE, IT IS HEREBY ORDERED that:

1. The above-captioned action is **DISMISSED**.
2. All pending Motions shall be terminated in accordance with this Order.

March 5, 2007  
DATE

  
UNITED STATES DISTRICT JUDGE

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<sup>1</sup> Plaintiff contends that both of his filings (D.I. 15, 16) are meant to be part of his Interlocutory Appeal, USCA 07-3999, even though they were filed in this Court. Plaintiff, of course, retains the option of filing his papers with the Court of Appeals for the Third Circuit if he wishes to present them in that forum.